

**Franchise Tax Board****ANALYSIS OF ORIGINAL BILL**

Author: Strickland Analyst: Deborah Barrett Bill Number: AB 1194  
Related Bills: See Legislative History Telephone: 845-4301 Introduced Date: February 27, 2009  
Attorney: Patrick Kusiak Sponsor: \_\_\_\_\_

**SUBJECT:** Taxpayer Transparency Act Of 2009/State Agencies Shall Develop And Operate Web Site

**SUMMARY**

This bill would require a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds.

**PURPOSE OF THE BILL**

According to the author's office, the purpose of this bill is to increase transparency in government spending.

**EFFECTIVE/OPERATIVE DATE**

This bill would be effective and operative on January 1, 2010, and specifies that the Web site be available by July 1, 2010.

**POSITION**

Pending.

**ANALYSIS****FEDERAL/STATE LAW**

Existing state law prohibits the disclosure of any taxpayer information, except as specifically authorized by statute. Generally, disclosure is authorized to other state tax agencies, federal tax agencies, and the Multi State Tax Commission solely for tax administration purposes. Additionally, Franchise Tax Board is authorized to publish statistical data related to taxpayer information so long as no individually identifiable information is revealed. Unauthorized disclosure of state tax information is a misdemeanor and unauthorized disclosure of federal tax in

State law requires Department of Finance (DOF) to provide an annual report to the Legislature on tax expenditures providing details on individual categories of the expenditures and historical information on the enactment and repeal of the expenditures. State law requires all state agencies to submit to the Governor a complete plan and itemized statement of all proposed expenditures and estimated revenues for the ensuing fiscal year.

**Board Position:**

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**Department Director****Date**

Selvi Stanislaus

04/06/09

Each state agency is responsible for its own services acquisitions program.

This responsibility includes ensuring the necessity of the services, securing appropriate funding, complying with laws and policies, writing the contract in a manner that safeguards the state's interests, and obtaining required approvals. State agencies use contracts, purchase orders, interagency agreements, and memorandums of understanding to effectuate services acquisition programs in place.

Existing state and federal laws provide various tax credits designed to provide tax relief for taxpayers who incur certain expenses (e.g., child adoption) or to influence behavior, including business practices and decisions (e.g., research credits or economic development area hiring credits). These credits generally are designed to provide incentives for taxpayers to perform various actions or activities that they may not otherwise undertake. State law also provides various exemption credits, including a personal exemption credit and exemption credits for dependents, blind persons, and individuals 65 or older. These exemptions are not deductions from adjusted gross income (AGI) but are credits against tax.

#### THIS BILL

This bill would enact the Taxpayer Transparency Act of 2009 (Act). The act would require a state agency, with assistance from the office of the State Chief Information Officer (SCIO), the Department of General Services (DGS), the Department of Finance (DOF), and the Governor's office to develop and operate a searchable Web site accessible by the public at no cost, that includes:

- Specified information on each expenditure of state funds by that agency,
- The ability of the user to view information on the Web site in a format that is searchable and can be downloaded and managed by the user with appropriate software, and
- The ability for users to provide input to each respective agency regarding the utility of the site and recommendations for improvements to the site.

The information required on the Web site for each expenditure of state funds, would include, but not be limited to the following:

- The name and principal location or residence of each entity or other recipient of the funds.
- The amount of expenditure.
- The type of transaction.
- The identity of the department, agency, office or other entity of state government making the expenditure.
- The program budget source for the expenditure.
- A description of the purpose of the expenditure.
- A description of any item purchased pursuant to the expenditure.
- Any other information deemed relevant by DOF and the Governor's office.

The Web site would be required to include information for the 2007-08 fiscal years no later than July 1, 2010, and thereafter shall be updated and include information for the most recently completed fiscal month.

The bill would provide definitions of the following terms:

- “Searchable Web site” would mean a Web site that allows the public to search and aggregate information identified under this bill’s provisions accessible from the agency’s homepage.
- “Expenditure of state funds” would mean the expenditure or transfer of state appropriated or non-appropriated funds in an amount in excess of one thousand dollars (\$1,000) in the form of including but not limited to grants, contracts, subcontracts, purchase orders, tax refunds, rebates, credits, and expenditures from the Reserve for Revenue Fluctuations.

Expenditures of state funds would not include the transfer of funds between two departments, agencies, offices, or entities of state government, or the transfer of state or federal assistance payments to an individual recipient or beneficiary of those assistance payments.

Each department, agency, and entity of state government would be required to cooperate fully with DOF and the Governor’s office in gathering and providing all information necessary to comply with the requirements of this bill. The bill specifically states that nothing in the bill requires disclosure of information deemed confidential or otherwise exempt from disclosure under state or federal law.

### IMPLEMENTATION CONSIDERATIONS

Because state agencies are already required to report contracts and purchases over \$5,000 to DGS for posting in the State Contract and Procurement Registration System (SCPRS), the requirement to place similar contract or purchase information on agency Web sites could be duplicative. The author may want to consider requiring the threshold for reporting contracts and purchases to DGS be lowered to \$1,000, which would accomplish the same level of transparency to the public without unnecessarily duplicating information or maintenance on all state agency Web sites.

Requiring the department to post purchases made for physical and information security purposes would be disclosing sensitive information to the general public regarding the type, brand, and quantity of security solutions used to protect department facilities and information infrastructure. This information could be used to analyze the means necessary to breach established security perimeters and could defeat or interrupt the operations of the systems that are in place.

If this bill is signed by the Governor by September 30, 2009, it does not appear that there would be sufficient time to gather and post the required information by the due date of July 1, 2010. If additional funding is needed by the department to implement this bill, the earliest that funding would be available under normal budget processes would be July 2010.

## **LEGISLATIVE HISTORY**

SB 502 (Walters, 2009) would require a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill would require the Website to be available January 1, 2010, and be updated annually. This bill was introduced on February 26, 2009, and has not yet been referred to a committee.

SB 719 (Huff, 2009) would require a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill would require the Website to be available January 1, 2010, and be updated annually. This bill was introduced on February 26, 2009, and has not yet been referred to a committee.

SB 1494 (McClintock, 2008) would have required a state agency to develop a publicly accessible Web site containing specified information detailing expenditures by that agency of state funds. This bill would have required the Web site to be available by July 1, 2009, and be updated annually. This bill was held in the Senate Appropriations Suspense File.

AB 1843 (Garrick, 2007/2008) would have required a state agency, as defined, to provide the State Controller's Office with information concerning state expenditures on programs administered by those agencies. This bill was held on the Senate floor.

AB 168 (Ridley-Thomas, 2005/2006) would have required DOF to submit a report on tax expenditures to the Legislature. This bill was vetoed by Governor Schwarzenegger, whose veto message can be found in Appendix A.

AB 2106 (Ridley-Thomas, 2003/2004) would have required DOF to submit a report on tax expenditures to the Legislature. AB 2106 was vetoed by Governor Schwarzenegger, whose veto message can be found in Appendix A.

AB 990 (Ridley-Thomas, 2003/2004) would have required DOF to submit a report on tax expenditures to the Legislature. This bill failed to pass out of the Legislature by the constitutional deadline.

SB 1292 (Haynes, 2001/2002) would have required state agencies, boards, commissions, departments, and offices to provide a report regarding financial activities to specific legislative committees for the 2001/2002 fiscal years and preceding fiscal years. SB 1292 failed to pass out of the house of origin.

## **PROGRAM BACKGROUND**

The State Contract and Procurement Registration System (SCPRS) is a centralized database of information on state contracts and purchases over \$5,000 established in 2003. This database is available on the California Department of General Services Web site. Each state agency is required to report its contracts to DGS. The public can download information on the procurement expenditures of each state department and agency.

## **FISCAL IMPACT**

The department would be required to gather and post the required information in the existing Web site, which would require an effort to collect and assemble the required information from various sources throughout the department. A fiscal estimate will be developed as the bill moves through the legislative process.

## **ECONOMIC IMPACT**

This bill would not impact state income tax revenues.

## **LEGISLATIVE STAFF CONTACT**

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**Appendix A  
To AB 1194**

BILL NUMBER: AB 168  
VETOED DATE: 09/22/2005

To the Members of the California State Assembly:

I am returning Assembly Bill 168 without my signature.

The Department of Finance and the Legislative Analysts Office currently have broad authority to review and report tax expenditures to the Legislature. This bill's restatement of the existing tax reporting requirements is redundant and unnecessary.

Sincerely,

Arnold Schwarzenegger

BILL NUMBER: AB 2106  
VETOED DATE: 09/24/2004

To the Members of the California State Assembly:

I am returning Assembly Bill 2106 without my signature.

Under existing law, the Department of Finance already is required to provide an annual tax expenditure report to the Legislature containing specific information. This bill changes the type of information that is provided in the annual report. However, some of the information that Department of Finance would be required to report is not available. For example, the original intent of a given tax expenditure is often not clearly defined in the enabling statute. In addition, the number and income distribution of taxpayers benefiting from sales tax exemptions would not be known because this information is not required to be reported by retailers when filing their tax returns. Furthermore, some of the information might not be available for reporting to the Legislature because of existing confidentiality requirements.

Therefore, I cannot sign this bill.

Sincerely,

Arnold Schwarzenegger